

AMENDED IN SENATE JUNE 26, 2012

AMENDED IN SENATE JUNE 12, 2012

AMENDED IN SENATE FEBRUARY 27, 2012

AMENDED IN SENATE SEPTEMBER 2, 2011

AMENDED IN SENATE JULY 13, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 796

Introduced by Assembly Member Blumenfield
(Coauthor: Assembly Member Wieckowski)
(Coauthor: Senator Pavley)

February 17, 2011

An act to amend Section 44559.3 of the Health and Safety Code, and to add and repeal *Chapter 5 (commencing with Section 26090) of Division 16.1 (commencing with Section 26050) 16* of the Public Resources Code, relating to financial assistance.

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Blumenfield. Financial assistance: ~~Capital Access Loan Program~~; Clean Energy Economy and Jobs Incentive Program.

~~Existing law establishes the Capital Access Loan Program for small businesses, administered by the California Pollution Control Financing Authority (authority), which provides loans through participating~~

~~financial institutions to qualifying small businesses. Existing law requires the authority to create a loss reserve account for each financial institution in order to provide protection against loss. The loss reserve account for a financial institution consists of moneys paid as fees by borrowers and the financial institution, moneys transferred to the account from a small business assistance fund, matching federal moneys, and other moneys provided by the authority or other sources. Existing law requires the combined amount to be deposited by the participating financial institution into any individual loss reserve account over a 3-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, to be not more than \$100,000.~~

~~This bill would increase this maximum contribution by the financial institution to \$200,000, if the matching contribution made by the authority is funded exclusively from funds made available pursuant to the federal Small Business Jobs Act of 2010. The bill would limit the amount of those funds used for matching contributions for deposits exceeding \$100,000 to not more than 50% of the available funds.~~

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and requires the authority to provide financial assistance in the form of a sale and use tax exclusion for applicants to promote the creation of California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption.

This bill would require the authority to establish the Clean Energy Economy and Jobs Incentive Program to provide financial assistance in the form of specified financing mechanisms for an applicant to promote the commercialization and manufacturing of a project in eligible clean energy technology areas. The bill would establish the Clean Energy Economy and Jobs Incentive Program Fund in the State Treasury and would, upon appropriation by the Legislature, authorize the authority to expend moneys in the fund to implement the program. The bill would repeal the program on January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 44559.3 of the Health and Safety Code~~
- 2 ~~is amended to read:~~

1 ~~44559.3. (a) The authority shall establish a loss reserve account~~
2 ~~for each financial institution with which the authority makes a~~
3 ~~contract.~~

4 ~~(b) The loss reserve account for a financial institution shall~~
5 ~~consist of moneys paid as fees by borrowers and the financial~~
6 ~~institution, moneys transferred to the account from a small business~~
7 ~~assistance fund, any matching federal moneys, and any other~~
8 ~~moneys provided by the authority or other source.~~

9 ~~(c) Notwithstanding any other law, the authority may establish~~
10 ~~and maintain loss reserve accounts with a financial institution~~
11 ~~under any policies the authority may adopt.~~

12 ~~(d) All moneys in a loss reserve account established pursuant~~
13 ~~to this article are the exclusive property of, and solely controlled~~
14 ~~by, the authority. Interest or income earned on moneys credited to~~
15 ~~the loss reserve account shall be deemed to be part of the loss~~
16 ~~reserve account. The authority may withdraw from the loss reserve~~
17 ~~account all, or a portion of, the interest or other income that has~~
18 ~~been credited to the loss reserve account. Any withdrawal made~~
19 ~~pursuant to this subdivision may be made prior to paying any claim~~
20 ~~and shall be used for the sole purpose of offsetting costs associated~~
21 ~~with carrying out the program, including administrative costs and~~
22 ~~loss reserve account contributions.~~

23 ~~(e) (1) Except as provided in paragraph (2), the combined~~
24 ~~amount to be deposited by the participating financial institution~~
25 ~~into an individual loss reserve account over a three-year period,~~
26 ~~in connection with a single borrower or a group of borrowers~~
27 ~~among which a common enterprise exists, shall be not more than~~
28 ~~one hundred thousand dollars (\$100,000).~~

29 ~~(2) (A) The combined amount to be deposited by the~~
30 ~~participating financial institution into an individual loss reserve~~
31 ~~account over a three-year period, in connection with any single~~
32 ~~borrower or any group of borrowers among which a common~~
33 ~~enterprise exists, shall be not more than two hundred thousand~~
34 ~~dollars (\$200,000), if the matching contribution made by the~~
35 ~~authority is funded exclusively from funds made available pursuant~~
36 ~~to the federal Small Business Jobs Act of 2010 (Public Law~~
37 ~~111-240).~~

38 ~~(B) The authority shall not use more than 50 percent of the total~~
39 ~~funds made available for matching contribution purposes of~~
40 ~~subparagraph (A) pursuant to the federal Small Business Jobs Act~~

1 of 2010 (Public Law 111-240) for deposits exceeding one hundred
2 thousand dollars (\$100,000).

3 ~~SEC. 2. Division 16.1 (commencing with Section 26050) is~~
4 ~~added to the Public Resources Code, to read:~~

5
6 ~~DIVISION 16.1. CLEAN ENERGY ECONOMY AND JOBS~~
7 ~~INCENTIVE PROGRAM~~

8
9 ~~26050. As used in this division, the following terms mean the~~
10 ~~following:~~

11 ~~(a) "Authority" means the California Alternative Energy and~~
12 ~~Advanced Transportation Financing Authority established pursuant~~
13 ~~to Section 26004.~~

14 ~~SECTION 1. Chapter 5 (commencing with Section 26090) is~~
15 ~~added to Division 16 of the Public Resources Code, to read:~~

16
17 ~~CHAPTER 5. CLEAN ENERGY ECONOMY AND JOBS INCENTIVE~~
18 ~~PROGRAM~~

19
20 ~~26090. As used in this division, the following terms mean the~~
21 ~~following:~~

22 ~~(b)~~
23 ~~(a) "Biogas" means digester gas, landfill gas, and any gas~~
24 ~~derived from an eligible biomass feedstock.~~

25 ~~(c) "Biomass" means an organic material not derived from fossil~~
26 ~~fuels, including, but not limited to, agricultural crops, agricultural~~
27 ~~wastes and residues, waste pallets, crates, dunnage, manufacturing~~
28 ~~and construction wood wastes, landscape and right-of-way tree~~
29 ~~trimmings, mill residues that result from milling lumber, rangeland~~
30 ~~maintenance residues, biosolids, sludge derived from organic~~
31 ~~matter, and wood and wood waste from timbering operations.~~

32 ~~(1) Agricultural wastes and residues include, but are not limited~~
33 ~~to, animal wastes, remains, and tallow, food wastes, recycled~~
34 ~~cooking oils, and pure cooking oils.~~

35 ~~(2) Landscape or right-of-way tree trimmings include all solid~~
36 ~~waste materials that result from tree or vegetation trimming or~~
37 ~~removal to establish or maintain right-of-way on public or private~~
38 ~~land for the following purposes:~~

39 ~~(A) Provision of public utilities, including, but not limited to,~~
40 ~~natural gas, water, electricity, and telecommunications.~~

1 ~~(B) Fuel hazard reduction resulting in fire protection and~~
2 ~~prevention.~~

3 ~~(C) Recreational use.~~

4 ~~(d)~~

5 (b) “California-based entity” means a corporation or other
6 business form organized for the transaction of business in
7 California that has an office in California, and manufactures or
8 plans to manufacture in California, a product in an eligible
9 technology that qualifies for financial assistance as determined by
10 the authority.

11 (c) “Eligible biomass feedstock” means an organic material
12 not derived from fossil fuels, including, but not limited to,
13 agricultural crops, agricultural wastes and residues, waste pallets,
14 crates, dunnage, manufacturing and construction wood wastes,
15 landscape and right-of-way tree trimmings, mill residues that
16 result from milling lumber, rangeland maintenance residues,
17 biosolids, sludge derived from organic matter, and wood and wood
18 waste from timbering operations.

19 (1) Agricultural wastes and residues include, but are not limited
20 to, animal wastes, remains, and tallow, food wastes, recycled
21 cooking oils, and pure cooking oils.

22 (2) Landscape or right-of-way tree trimmings include all solid
23 waste materials that result from tree or vegetation trimming or
24 removal to establish or maintain right-of-way on public or private
25 land for the following purposes:

26 (A) Provision of public utilities, including, but not limited to,
27 natural gas, water, electricity, and telecommunications.

28 (B) Fuel hazard reduction resulting in fire protection and
29 prevention.

30 (C) Recreational use.

31 ~~(e)~~

32 (d) “Eligible clean energy technology” means a technology in
33 any of the following areas:

34 (1) A technology that conserves, produces, or processes heat,
35 space heating, water heating, steam, space cooling, refrigeration,
36 mechanical energy, electricity, or energy in any form convertible
37 to those uses that does not expend or use conventional energy fuels
38 and that uses any of the following energy generating technologies:

39 (A) Biogas.

40 (B) Biomass.

1 (C) Geothermal.

2 (D) Solar photovoltaic.

3 (E) Solar thermal.

4 (F) Wind.

5 (2) An emerging commercially competitive
6 transportation-related technology capable of creating long-term,
7 high value-added jobs for Californians while enhancing the state's
8 commitment to energy conservation, pollution and greenhouse gas
9 emission reduction, and transportation efficiency. Eligible
10 transportation-related technology projects do not include those
11 required to be undertaken pursuant to state or federal law or
12 regulations, air district rules or regulations, memoranda of
13 understanding with a governmental entity, or legally binding
14 agreements or documents. The State Air Resources Board shall
15 advise the authority to ensure that the requirements of this
16 paragraph are met.

17 (3) Energy storage technology as defined in subdivision (a) of
18 Section 2835 of the Public Utilities Code.

19 (4) Stationary fuel cells designed for renewable fuel use.

20 ~~(f)~~

21 (e) "Financial assistance" means loans, loan loss reserves,
22 interest rate reductions, insurance, guarantees or other credit
23 enhancements or liquidity facilities, contributions of money,
24 property, labor, or other terms of value, or any combination thereof,
25 as determined by the resolutions of the authority.

26 ~~(g)~~

27 (f) "Financial institution" means an insured depository institution
28 or insured credit union, as those terms are defined in Section 103
29 of the Riegle Community Development and Regulatory
30 Improvement Act of 1994 (12 U.S.C. Sec. 4702).

31 ~~(h)~~

32 (g) "Manufacture" means to make, process, prepare, alter, repair,
33 or finish in whole or in part, or to assemble.

34 ~~(i)~~

35 (h) "Program" means the Clean Energy Economy and Jobs
36 Incentive Program established pursuant to Section 26051.

37 ~~(j)~~

38 (i) "Project total" means the total capital expenses for an
39 applicant's project.

1 ~~26051.~~

2 26091. (a) The authority shall establish the Clean Energy
3 Economy and Jobs Incentive Program to provide financial
4 assistance to eligible California-based entities for the
5 manufacturing of eligible technologies.

6 (b) The authority shall ~~only provide financial assistance to a~~
7 ~~evaluate project that meets all of the applications based upon the~~
8 ~~net benefits test pursuant to Section 26011.8, which may include,~~
9 ~~but are not limited to, the following requirements criteria:~~

10 (1) Meets or exceeds the state's energy and environmental goals.

11 (2) Promotes instate commercialization and manufacturing
12 capacity that will establish California as a leader in clean energy
13 technologies.

14 (3) Supports instate manufacturing of eligible clean energy
15 technology on a scale that is capable of meeting a market demand.

16 (4) Maximizes the leveraging of other funding sources.

17 (c) A project is eligible for financial assistance if the applicant
18 demonstrates, to the satisfaction of the authority, all of the
19 following:

20 (1) The eligible clean energy technology is significantly more
21 energy efficient or cost effective than current comparable products
22 commercially available and has been researched and developed.

23 (2) The project is for the full-scale commercialization or
24 manufacture of a product to be used as a part of an eligible clean
25 energy technology within three years of the date of the submission
26 of the application.

27 (3) The financial assistance would accelerate the construction
28 or expansion of the project.

29 (4) The eligible clean technology is manufactured by a
30 California-based entity that is transitioning from product
31 development to commercialization.

32 (5) Any other criteria established by the authority.

33 (d) (1) The financial assistance provided to an applicant shall
34 not exceed five million dollars (\$5,000,000), and shall not be worth
35 more than 25 percent of the project total as provided by the
36 applicant.

37 (2) Notwithstanding paragraph (1), the authority may provide
38 financial assistance of up to ten million dollars (\$10,000,000) if
39 the authority provides notice to the chair of the Joint Legislative

1 Budget Committee and the chair concurs with the provision of the
2 financial assistance within 30 days of the notice.

3 (e) The financial assistance *provided pursuant to this chapter*
4 shall only be provided in partnership with a financial institution.

5 ~~26052.~~

6 26092. (a) This ~~division~~ *chapter* does not require the authority
7 to promulgate regulations to implement this ~~division~~ *chapter* until
8 the Legislature appropriates funds to the authority for the purposes
9 of this ~~division~~ *chapter*.

10 (b) The implementation of this ~~division~~ *chapter* is contingent
11 on the availability of the nonbypassable system benefits charge
12 collected by the Public Utilities Commission pursuant to its
13 authority under the Public Utilities Code, and private and federal
14 funds for the purpose of developing clean energy technology.

15 (c) On or before January 1, 2015, the Legislative Analyst's
16 Office shall report to the Joint Legislative Budget Committee on
17 the effectiveness of the program by evaluating factors, including,
18 but not limited to, all of the following:

19 (1) The number of jobs created by the program in California.

20 (2) The number of businesses that have remained in, or relocated
21 to, California as a result of the program.

22 (3) The amount of state and local revenue and economic activity
23 generated by the program.

24 (4) The amount of reduction in greenhouse gas emissions, air
25 pollution, water pollution, and energy consumption.

26 ~~26053.~~

27 26093. The authority shall make every effort to expedite the
28 operation of this ~~division~~ *chapter*, and shall adopt regulations for
29 purposes of this ~~division~~ and Section 26011.5 *chapter* as emergency
30 regulations in accordance with Chapter 3.5 (commencing with
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
32 Code. For purposes of that chapter, including Section 11349.6 of
33 the Government Code, the adoption of the regulations shall be
34 considered by the Office of Administrative Law to be necessary
35 for the immediate preservation of the public peace, health and
36 safety, and general welfare.

37 ~~26054.~~

38 26094. (a) The Clean Energy Economy and Jobs Incentive
39 Program Fund is hereby established in the State Treasury, and

1 upon appropriation by the Legislature, shall be expended by the
2 authority for the purposes of this ~~division~~ *chapter*.

3 (b) Of the moneys appropriated pursuant to subdivision (a), up
4 to three hundred thousand dollars (\$300,000) may be expended
5 by the authority for the initial administrative costs in implementing
6 this ~~division~~ *chapter*.

7 (c) The authority may fix fees and other charges to reimburse
8 the costs of the authority in its administration of this ~~division~~
9 *chapter*.

10 ~~26055.~~

11 26095. This ~~division~~ *chapter* shall remain in effect only until
12 January 1, 2018, and as of that date is repealed, unless a later
13 enacted statute, that is enacted before January 1, 2018, deletes or
14 extends that date.